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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,674	08/23/2001	Takeshi Saito	213200US2RD	7904

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

TRAN, TONGOC

ART UNIT	PAPER NUMBER
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2134

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/25/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/25/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/934,674

Applicant(s)

SAITO, TAKESHI

Examiner

Tongoc Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 2/7/2007 has been entered. Claims 1, 6, 11, 15 and 19-24 have been amended. Claims 1-24 are pending.

Response to Arguments

2. Applicant's arguments with respect to amended claims been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Bluetooth Specification", Bluetooth Security, November 29, 1999, pages 149-178, in

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view of ("5C Digital Transmission Content Protection White Paper" Revision 1.0 July 14, 1998, pages 1-13, hereinafter 5C) and further in view of Morais et al. (U.S. Patent No. 2003/0093669, hereinafter Morais).

In respect to claims 1, 6 and 23, Bluetooth discloses transmitting device, for transmitting copyright protected contents data to a receiving device through radio communications, transmitting device comprising:

- a first authentication unit configured to carry out a first authentication with the transmitting device, for judging whether the transmitting device is the device that is allowed to communicate with the transmitting device or not, on a radio link layer of the radio communications;

- a first key exchange unit configured to generate a first encryption key and share the first encryption key with the transmitting device when the first authentication with the transmitting device by the first authentication unit is success (Bluetooth, pages 149-154);

Bluetooth discloses an encrypted radio communication using a first encryption key; a communication unit to setup an encryption path and transmit data to the receiving device through an encrypted communication path (Bluetooth, pages 149-154) but does not explicitly disclose a second authentication unit configured to carry out a second authentication with the receiving device, for protecting copyright of the contents data to be transmitted; a second key exchange unit configured to generate a second encryption key and share the second encryption key with the receiving device when the second authentication with the receiving device by the second authentication unit is success

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and transmit contents data through the second encryption key. However, 5C White Paper discloses copy protection system through authentication, exchange key and encrypting contents data being exchanged (5C White Paper, pages 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the authentication and key exchange taught by Bluetooth to establish a secure communication link between authorized devices with 5C White Paper's teaching of providing copy protection system for protecting contents data through a second authentication and key exchanged by encrypting the content data with the content key to ensure the copyrighted content data is securely managed. Bluetooth and 5C does not specifically describe the condition wherein at least one of the second authentication unit and the second key exchange unit rejects its process of at least one of authentication and key exchange with the receiving device when at least one of the first authentication by the first authentication unit and the first key exchange by the first key exchange unit with the receiving device is unsuccessful. However, Morais discloses secure communication between at least one console-based systems communicating over wired or wireless interface with initially established secure communication links between one another so that data transferred data can be authenticated by the entities to ensure that a trusted entity did indeed send that particular data (see page 3, [0040]). Examiner further taken official notice that it is well known that if initial authentication fails, establishing connection between devices would have been broken down. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of first authentication

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taught by Bluetooth and second authentication taught by 5C with secure communication over the wireless link with initially established secure communication links taught by Morais to ensure that the initial authentication is securely connected to the trusted party.

In respect to claim 2, Bluetooth and 5C White Paper disclose the transmitting and receiving devices of claims 1 and 6. Bluetooth and 5C White Paper do not explicitly disclose wherein when the second authentication or sharing of the second encryption key is failure for a reason that the encrypted radio communication on the radio link layer is missing, one of the second authentication unit and the second key exchange unit notifies the failure and the reason to the receiving device. However, Official Notice is taken that it is old and well known for data transmitting device to notify receiving device in event of communication failure and the reason occurred (for example, user surfing Internet receives communication disconnecting message and reason). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate this well known feature with Bluetooth and 5C White Paper authentication and key exchange due to the fact that radio communication is more vulnerable to communication failure due to frequent airway interference.

In respect to claim 3, Bluetooth and 5C White Paper disclose the transmitting device of claims 1 and 6, further comprising a storage unit configured to store the contents data (5C White Paper, Fig. 1, page 4).

In respect to claim 4, Bluetooth and 5C White Paper disclose the transmitting device of claims 1 and 6, wherein the first authentication by the first authentication unit is success when a PIN code entered at the transmitting device and a PIN code notified from the receiving device are in a prescribed relationship (Bluetooth, page 152, 6th paragraph).

In respect to claim 5, Bluetooth and 5C White Paper disclose the transmitting device of claim 4, wherein each PIN code contains at least one of a varying code information, a prescribed code information, a body information acquired from a body of a user, and an attribute information regarding attributes of the user (Bluetooth, page 152, 6th paragraph).

In respect to claims 11, 15 and 24, the claim limitations are receiving device claims that are substantially similar to claims 1, 6 and 23. Therefore, claims 11, 15 and 24 are rejected based on the similar rationale.

In respect to claim 12, Bluetooth and 5C White Paper disclose the transmitting device of claim 11, further comprising a reproduction unit configured to reproduce the contents data (5C White Paper, page 2, 7th paragraph).

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In respect to claims 7-10, 13-14 and 16-18, the claim limitations are substantially similar to claims 2-5 and 12. Therefore, claims 7-10, 13-14 and 16-18 are rejected based on the similar rationale.

In respect to claims 19-22, the claim limitation are system claims that are substantially similar to claims 1 and 11. Therefore, claims 19-22 are rejected based on the similar rationale.


Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tongoc Tran whose telephone number is (571) 272-3843. The examiner can normally be reached on 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



April 19, 2007



KAMBIZ ZAND
SUPERVISORY PATENT EXAMINER